**Pennsylvania Transformer Technology, Inc. *and* United Steelworkers of America, AFL–CIO, CLC.** Case 6–CA–29448

August 25, 2000

DECISION AND ORDER

BY MEMBERS FOX, LIEBMAN, AND HURTGEN

On September 30, 1998, Administrative Law Judge Karl H. Buschmann issued the attached decision. The Respondent filed exceptions, a supporting brief, a Motion to Reopen the Record, and a reply to the General Counsel's opposition to its motion. The General Counsel filed limited cross exceptions, an answering brief to the Respondent's exceptions, and an opposition to the Respondent's motion to reopen the record. Finally, the Charging Party filed a brief in answer to the Respondent's exceptions and in support of the judge's decision.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings, and conclusions[1] as modified below and to adopt the recommended Order as modified.[2]

We affirm the judge's finding that Respondent Pennsylvania Transformer is a successor to Cooper Power Systems, and that it violated Section 8(a)(5) and (1) by failing to recognize the Charging Party Union as the collective-bargaining representative of its production and maintenance employees pursuant to a recognition request made on March 30, 1998. The General Counsel has excepted to the judge's failure to find specifically that, as of April 1998, the Respondent had hired a substantial and representative complement of employees. We find merit in the General Counsel's exception, and reject the Respondent's contention that the Union's demand for recognition in April 1998 was premature.

As articulated by the Supreme Court in *Fall River Dyeing Corp. v. NLRB*, 482 U.S. 27 (1987), in deciding whether a "substantial and representative complement" existed at a particular time which triggers the successor's bargaining obligation, the Board examines a number of factors, including

> "whether the job classifications designated for the operation were filled or substantially filled and whether the operation was in normal or substantially normal production." In addition, [the Board] takes into consideration "the size of the complement on that date and the time expected to elapse before a substantially larger complement would be at work . . . as well as the relative certainty of the employers expected expansion." Id. at 48 [citations omitted].

Here, the record shows that in August 1996 the Respondent purchased all of Cooper's facilities and assets used in the manufacture of electrical transformers. The Respondent began operations in January 1997, building core transformers, one of two types of transformers that had been manufactured by Cooper.[3] The Respondent occupies approximately one-half the space that Cooper utilized.

Regarding the Respondent's level of production, the judge determined that the Respondent "[had] filled a vacuum in a market left by Cooper and [was] in the process of expanding rapidly in the manufacture and sale of the same products." The record shows that the Respondent typically made transformers which were smaller than those produced by Cooper, but that the production process and the employee skills necessary to perform this work were essentially identical.

The judge found that as of April 1998, at the time of the demand for recognition, the Respondent had hired 68 production employees, 54 of whom or nearly 80 percent had formerly worked for Cooper. Further, as of the time of the hearing in July 1998 the Respondent had hired approximately 100 production and maintenance employees, a majority of whom were former Cooper employees.[4] The record shows that the bulk of the Respondent's hiring came early in its startup phase and that, by the time of the hearing, its hiring had dramatically slowed down.[5]

[1] "In the circumstances of this case, Member Hurtgen agrees with the judge that there was substantial continuity between the predecessor's operation and the successor's operation. In *Tree-Free Fiber Co.,* 328 NLRB 389 (1999), *Bronx Health Plan*, 326 NLRB 810 (1998), and *Simon DeBartelo Group*, 325 NLRB 1154 (1998), Member Hurtgen, in dissent, found no substantial continuity. In those cases, in Member Hurtgen's view, the changes between the predecessor operation and the successor operation were far more substantial then those involved herein. In *Tree-Free*, the predecessor produced a myriad of paper products, and it sold these to other manufacturers. The alleged successor produced only jumbo rolls and sold them to retailers. In *Bronx Health Plan*, the predecessor was a large multifaceted hospital, and the alleged successor provided medical insurance services. In *M.S. Management*, the predecessor was a maintenance contractor which employed a variety of maintenance employees. The alleged successor was a shopping mall which employed only the maintenance employees who performed HVAC work.

[2] The judge's recommended Order is modified to conform to *Excel Container,* 325 NLRB 17 (1997).

[3] Cooper had also manufactured another type of transformer called a shell transformer, which the Respondent has plans to manufacture at some indefinite time in the future.

[4] It appears that there were a total of about 157 employees employed as of the date of the hearing, and that there was authorization to hire 24 additional employees.

[5] While asserting that it plans to expand into the manufacturing of shell transformers in the near future, the Respondent nevertheless contends that any bargaining obligation is premature because it will not reach its full employee complement of approximately 400 for 2 or more years. This projection is speculative and dependent upon the Respondent increasing its manufacture and sales of both types of transformers. The Court in *Fall River Dyeing*, supra, and the Board have dismissed this type of argument premised on a "full" employee complement. See also, *Clement-Blythe Co.*, 182 NLRB 502 (1970), enfd. 415 F.2d 78 (4th Cir. 1971), where the Board held that "it would unduly frustrate existing employees' choice to delay selection of a bargaining representative for months or years until the very last employee is on board." We note

The Respondent's employees are divided into two classifications—transformer technician and apprentice—and both of these classifications were filled as of the date of the recognition demand. Further, the record shows that, although the Respondent eliminated certain classifications utilized by Cooper, these employees are performing the same work that they did for Cooper including winding, electrical testing, and storeroom attending, and they are utilizing the same knowledge and skills, and, in some instances, are supervised by the same supervisors.

Based on the totality of the circumstances, we find that the Respondent's operation was in a normal production phase with transformers being regularly and consistently built and sold, and that as of the date of the demand for recognition, the Respondent had hired a substantial and representative complement of employees. Therefore, we affirm the judge's finding of successorship as of April 1, 1998,[6] with a corresponding obligation to bargain with the Union as of that date.[7]

## ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge as modified and orders that the Respondent, Pennsylvania Transformer Technology, Inc, Canonsburg, Pennsylvania, its officers, agents, successors, and assigns, shall take the action set forth in the Order as modified.

1. Substitute the following for paragraph 2(b):

"2. (b) Within 14 days after service by the Region, post at its facility in Canonsburg, Pennsylvania, copies of the attached notice marked "Appendix."[2] Copies of the notice, on forms provided by the Regional Director for Region 6, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since April 1, 1998."

that the Charging Party Union made the pertinent demand for recognition over 1 year after production had commenced, during which time the Respondent significantly increased the size of its workforce.

[6] See *Cencom of Missouri*, 282 NLRB 253, 259 (1986).

[7] We deny the Respondent's motion to reopen the hearing. The Respondent contends that it now employs 130 production and maintenance employees and that a majority of those employees were not employed by Cooper. Since we find, in agreement with the judge, that the Respondent's duty to recognize and bargain with the Union began on April 1, 1998, the changes mentioned in the Respondent's motion, having occurred after the relevant date, do not affect our conclusion that the Respondent is a successor employer to Cooper. See *Cencom of Missouri*, supra at fn. 2; *Hudson River Aggregates, Inc*., 246 NLRB 192 fn. 2 (1979). Accordingly, since the Respondent seeks to present evidence that if adduced and credited would not require a different result, we deny the Respondent's motion. See Sec. 102.48(d) of the Board's Rules and Regulations.

*Clifford E. Spungen, Esq*., for the General Counsel.
*Walter G. Bleil, Esq. (Deopken Keevican & Weiss),* of Pittsburgh, Pennsylvania, for the Respondent.
*David R. Jury, Esq.,* of Pittsburgh, Pennsylvania, for the Charging Party.

## DECISION

## STATEMENT OF THE CASE

KARL H. BUSCHMANN, Administrative Law Judge. This case was tried in Pittsburgh, Pennsylvania, on July 7, 1998, upon a complaint issued on May 18, 1998. The underlying charges were filed by the United Steelworkers of America, AFL–CIO, CLC (the Union) on December 22, 1997.

The complaint alleges that the Respondent, Pennsylvania Transformer Technology, Inc. (The Respondent or PTTI), violated Section 8(a)(1) and (5) of the National Labor Relations Act (the Act) by failing and refusing since April 1, 1998, to recognize and bargain with the Union as the collective-bargaining representative of PTTI's production and maintenance and tester employees.

The Respondent's answer to the complaint admitted the jurisdictional allegations in the complaint, the supervisory status of Ravindra Nalh Rahangdale, the status of the Union as a labor organization, as well as its refusal to recognize and bargain with the Union. The Union made a written request by letter of March 30, 1998. The Respondent's answer admitted that it has failed and refused to recognize and bargain with the Union as the exclusive collective-bargaining representative of the employees in the following two units:

> All production and maintenance employees of the Company's Canonsburg Transformer Plant, except for salaried employees, nurses, transformer testers, office clerical and technical employees, watchmen, guards, inspectors, and all supervisory employees.
>
> . . . .
>
> All testers (at the Greater Canonsburg Works) except for supervisors as defined in the National Labor Relations Act as amended and all other employees.

The issue presented is whether PTTI is a successor employer to Cooper Power Systems Division, Cooper Industries, Inc., and is obligated to recognize and bargain with the Union.

## I. JURISDICTION

The Respondent, a Delaware corporation, with its office and place of business in Canonsburg, Pennsylvania, is engaged in the manufacture and distribution of power and specialty transformers.

With purchases and receipts of goods valued in excess of $50,000 from its Canonsburg facility to points outside the Commonwealth of Pennsylvania, the Respondent is admittedly an employer within the meaning of Section 2((2), (6), and (7) of the Act.

The Union, United Steelworkers of America, AFL–CIO, CLC, is admittedly a labor organization within the meaning of Section 2(5) of the Act.

## II. FACTS

PTTI's facility in Canonsburg was owned and operated by Cooper Power Systems Division, Cooper Industries, Inc., since 1985. Owners prior to Cooper Industries, Inc., were McGraw Edison. Cooper had from 750 to 880 employees prior to its closure in 1994. At that time, the employees were represented by three units of the Steelworkers Union. Local 3968 represented the production and maintenance employees, Local 4561 represented the "testers," and Local 6449 represented the office and technical employees. The latter unit is not at issue in this case.

In April 1994, Cooper announced to the Union that it had to close the facility unless a purchaser could be found by the end of 1994. The Union and its three locals established a committee to find a buyer. However, the effort was unsuccessful. Cooper and the Union entered into a closing agreement which provided, inter alla, for recognition rights in the event the Company were to reopen within a period of 2 years (GC Exh. 23). On November 22, 1994, the plant closed. The Union continued its efforts to search for a buyer. Another committee was established, known as the Canonsburg industrial development committee which included several former union presidents and State and local officials, as well as members from the local Chamber of Commerce. This committee tried to find a buyer and took action when the plant was rumored to be moved to China. In addition, the Union established a program for dislocated workers who needed assistance as a result of the closing of the plant. The committee also involved itself in sale of the facility to Ravindra Nalh (R.N.) Rahangdale, the present owner. The Canonsburg industrial development committee issued a press release about the sale of the facility to an investment group headed by Rahangdale (GC Exh. 26).

Rahangdale began to negotiate for the acquisition of the facility in 1995. On August 9, 1996, he acquired all the assets of Cooper's Canonsburg plant which he combined with his other company, Fayetteville Transformer Company in Raeford, North Carolina. The record contains the purchase and sales agreement between Cooper Power Systems, Inc. and Fayetteville Transformer Company (GC Exh. 2), as well as a list of purchase assets (GC Exh. 3). The new Company known as Pennsylvania Transformer Technology, Inc. (PTTI), began operations on August 11, 1996, in the same facility formerly owned and operated by Cooper, using the same equipment and hiring former Cooper employees. The production of transformers began on January 1996 with sales to former customers of Cooper.

The new Company initially obtained its employees from Bedway Temporary Services which had also been instrumental in assisting Cooper when it closed the facility. Applicants for employment were interviewed by PTTI personnel and hired by Bedford. They worked under the supervision of PTTI management and were considered probationary employees. Following a probationary period of 6 months, they were eligible to become PTTI employees. The initial complement of employees were virtually all former Cooper employees (GC Exh. 8). More specifically, as of April 1998, 54 of the 68 production employees or nearly 80 percent of the PTTI work force had worked for Cooper. Considering also the employees who were on Bedway's payroll, 58 out of 82 production workers or 72 percent had been Cooper employees (R. Exh.10). At the time of the trial, the Respondent conceded that a majority of the production and maintenance employees were former Cooper employees. The record similarly shows that three of the four workers who are classified as testers were former Cooper employees (GC Exh. 11).

Several supervisors working for the PTTI had worked for Cooper, including John Sworchek and Spencer Burnside (R. Exh. 8). Richard L. Pacilla, general manager of PTTI was also a former Cooper employee.

The product of PTTI, like its predecessor, is the manufacture of electric transformers ranging from 10 to 60 megavolts (MVA). Cooper's definition of "intermediate" was an MVA range of 10 to 20 and anything above 24 MVA was considered a large transformer. The Respondent's definition was that a capacity of up to 50 MVA was considered intermediate and anything above that was a large transformer. Cooper also produced shell form transformers which have the same function as core transformers but have the appearance of stacked discs. PTTI has not yet produced shell transformers but has the intention to manufacture these types in the future. While the size of the transformer units produced by PTTI has tended to be smaller than those produced by Cooper or the level of production by PTTI has been lower than that of Cooper, there is no question that the products as such are admittedly identical, requiring the same skills and expertise of its employees.

The Respondent's plant is the same as Cooper's former facility, except that PTTI has occupied a smaller portion of Cooper's former area. PTTI estimated that it currently uses about half of Cooper's former production area. Portion of the former Cooper plant have been leased. However, as the Company grows, it is expected to make increasing use of Cooper's former plant.

PTTI uses Cooper's equipment. While the Respondent has sold or moved some of the original equipment, in continued use are the furniture, machinery, spare parts, maintenance inventory, and intellectual property for the design of the transformers. The only equipment which the Respondent added were a new computer, printers, and copiers.

Cooper's former customers have provided the base for PTTI's customers. More than half of its sales are being made to former customers of Cooper. Several witnesses recited customers of Cooper who are also customers of PTTI, such as Detroit Edison, Florida Power and Light, Western States Electric, Inc., Babcock and Wilcox, Consumers Energy, Smith Central Power, Georgia Power, AEP, Alabama Power, Penn Power and Light, TVA, Allegheny Power, and Entergy (GC Exh. 14).

## III. ANALYSIS

The parties are in agreement that the resolution of the issue of successorship is controlled by *Fall River Dyeing & Corp. v. NLRB,* 482 U.S. 27 (1987). The General Counsel and the Charging Party submit that PTTI, although smaller in size than its predecessor, is without a doubt the successor to Cooper Power Systems, and, accordingly, obligated to recognize and bargain with the Union.

According to the Respondent, the *Fall River* criteria have not been satisfied because PTTI has designated certain job classifications for its employees which are different than Cooper's job classifications. PTTI is not operating anywhere near the optimum capacity and far short of that achieved by Cooper, and the size of its complement of employees is substantially smaller, although it is expected to increase substantially. For those reasons, the Respondent suggests that a finding of successorship is premature. The diminished scope of its operations, as compared to Cooper's facility, different supervisors, customers and products, as well as the long hiatus

ucts, as well as the long hiatus between operations, all militate against a conclusion of successorship, according to the Respondent.

The Court in *Fall River* initially emphasized the presumption of majority status of the union during a successorship situation. "[D]uring this unsettling transition period, the union needs the presumptions of majority status to which it is entitled to safeguard its members' rights and to develop a relationship with the successor." Id. at 39. According to the Court, the obligations of successorship and the duty to bargain depend upon whether there is "substantial continuity" between the enterprises. The Court stated that this question "is primarily factual in nature and is based upon the totality of the circumstances of a given situation." The Board must examine a number of factors: "whether the business of both employers is essentially the same; whether the employees of the new company are doing the same jobs in the same working conditions under the same supervisors; and whether the new entity has the same production process, produces the same products, and basically has the same body of customers." Id. at 43.

The record shows that the new company is essentially a continuation of the old, albeit after a 2-year hiatus, and on a smaller scale. Cooper closed its doors on November 22, 1994, and PTTI reopened in August 1996. However, during the hiatus, a skeleton crew made the necessary repairs and supplied parts to former customers. The Union continued its efforts to locate a new owner and continually kept the former Cooper employees informed about the developments and was continually involved in the fate of the old company and its employees. A lengthy hiatus between ownerships has not been a successful defense to a finding of a successorship. *Straight Creek Mining,* 323 NLRB 759 (1997).

The Respondent showed that the transformers it produces are smaller than those of its predecessor. Yet the record shows that it has produced and intends to produce identical products, using the same machinery in the same plant with a majority of the same employees. Cooper produced intermediate and large core transformers, as well as shell form transformers. PTTI has admittedly produced intermediate size transformers, admittedly intends to build shell transformers, and admittedly has the capacity and expertise to build large transformers. Rahangdale testified as follows (Tr. 103).

> That is the reason why we are moving from small to big, it is a progressive stage. Let's say even if we made a hundred MVA core form transformer, it takes longer time, that means [that] industry inventory take[s] longer. We are moving step by step. Every month we are making bigger transformers. As we move further on the core form transformer, we have gotten few of what is now the shell form transformers, which we plan to enter into the market.

PTTI, like Cooper, sold spare parts. In this regard, Rahangdale testified (Tr. 114): "As part of the purchase we acquired the parts and the drawings to provide spare parts for those transformers that either McGraw-Edison or Cooper Industries has already sold and the circuit breakers that Cooper Industries . . . had sold." The PTTI 1998 marketing plan features, an experience work force, diverse engineering capabilities and "state of the art" manufacturing, processing, and testing, as well as a product base for medium and large transformers (GC Exh. 21). The record contains documents showing in technical detail the manufacturing goals and product descriptions relating to the comparative nature of the two enterprises. The substance of the documents is that PTTI has filled a vacuum in a market left by Cooper and is in the process of expanding rapidly in the manufacture and sale of the same products.

The record also shows that a majority of the employees currently working for PTTI have formerly been employed by Cooper. That is one of the reasons which enabled the Respondent to feature in its brochures an "experienced" work force. The employees have performed the same functions and have not been trained differently under current ownership. Indeed, the Respondent has not had a training program for its employees.

The Respondent stressed the adoption of new job classifications for the employees and the elimination of Cooper's multistructured job descriptions. In substance, PTTI has classified its employees as either "transformer technicians" or "apprentices" to reflect the owner's management philosophy. Under that concept, employees should be "empowered" and "flexible." However, the elimination of job classifications and increased flexibility do not reflect different job skills or changed work requirement for the employees. The employees have performed the same functions and have had the same skills as before. While PTTI employees have enjoyed less supervision and have had an increased responsibility for quality and a sense of flexibility, they are still supervised in their work, perform the same work to produce the same product as before. Such changes as eliminating job classifications or combining job functions are considered insignificant for purposes of finding a successorship. *Capitol Steel & Iron Co.,* 299 NLRB 484 (1990). The Respondent admitted that the mechanics of assembling a transformer have not changed in a hundred years and require the same job skills.

The record shows that PTTI has conducted its operation out of the same physical facility with the same equipment. Except for the acquisition of a new computer and printer, the Respondent has used about 45 or 50 percent of the former plant and equipment. While PTTI has used less space and inventory than its predecessor, it is significant that PTTI has not occupied any other space or different equipment, but conducts its operations, albeit on a smaller scale, entirely within the confines of the predecessor company. It is clear that the concept of a successor employer is not affected by its comparative size.

Finally, the Respondent's customer base reflects that 50 percent have been former customers of Cooper. Although Cooper sold its transformers primarily to large utilities, PTTI customers include industrial concerns. The Respondent admits that Cooper may have had thousands of customers. That would certainly include both, utility and industrial customers.· The record plainly shows that PTTI sold its transformers to major utilities. Indeed, the Respondent anticipates gaining additional utility customers as other transformer manufactures have gone out of business. The record shows that many of Cooper's former customers are also customers of PTTI.

Substantial continuity between the companies was firmly established in this case. Illustrative of the concept of substantial continuity is the testimony of Respondent's human resource manager, Deborah Baker:

> I basically inherited Bedway when I arrived. From what I have been told is when Cooper closed the plant, there were about six ex-employees that they had kept as a skeleton crew, and the other six employees that I believe were hourly employees were hired through Bedway, and whenever the plant was purchased by Ravi and company,

they kept the Bedway employees on as Bedway, and then when I got there, we all sat down and decided how we were going to work this out since we were a startup company, and that we would keep Bedway, continue to use Bedway for various business reasons.

## CONCLUSIONS OF LAW

1. The Respondent, Pennsylvania Transformer Technology, Inc., is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. The Union, United Steelworkers of America, AFL–CIO, CLC, is a labor organization within the meaning of Section 2(5) of the Act.

3. The Union has been the exclusive collective-bargaining representative of the following employees of Cooper, constituting units appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

> All production and maintenance employees of the Company's Canonsburg Transformer Plant, except for salaried employees, nurses, transformer testers, office clerical and technical employees, watchmen, guards, inspectors, and all supervisory employees.
>
> . . . .
>
> All testers (at the Greater Canonsburg Works) except for supervisors as defined in the National Labor Relations Act as amended and all other employees.

4. The Respondent is a successor to Cooper and is obligated to recognize and bargain with the Union.

5. The Respondent has refused since April 1, 1998, to recognize and bargain with the Union as the collective-bargaining representative of its union employees.

## REMEDY

Having found that the Respondent has violated Section 8(a)(5) and (1) of the Act by refusing to recognize and bargain with the Union. I shall order it to cease and desist and take certain affirmative action necessary to effectuate the policies of the Act. I shall order that the Respondent recognize and, on request, bargain with the Union as the collective-bargaining representative of the unit employees and, if an understanding is reached, embody that understanding in a signed agreement.

On these findings of fact and conclusions of law and with the entire record, I issue the following recommended[1]

## ORDER

The Respondent, Pennsylvania Transformer Technology, Inc., Canonsburg, Pennsylvania, its officers, agents, successors, and assigns shall

1. Cease and desist from

(a) Refusing to recognize and bargain collectively in good faith with United Steelworkers of America, AFL–CIO, CLC as the exclusive collective-bargaining representative for the unit employees in the following appropriate units:

> All production and maintenance employees of the Company's Canonsburg Transformer Plant, except for salaried employees, nurses, transformer testers, office clerical and technical employees, watchmen, guards, inspectors, and all supervisory employees.
>
> . . . .
>
> All testers (at the Greater Canonsburg Works) except for supervisors as defined in the National Labor Relations Act as amended and all other employees.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Recognize and, on request, bargain collectively and in good faith with the Union as the exclusive representative of the employees in the appropriate units concerning terms and conditions of employment and, if an understanding is reached, embody it in a signed agreement.

(b) Within 14 days after service by the Region, post at its facility in Canonsburg, Pennsylvania, copies of the attached notice marked "Appendix."[2] Copies of the notice, on forms provided by the Regional Director for Region 6, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since December 22, 1997.

(c) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

## APPENDIX

### NOTICE TO EMPLOYEES
### POSTED BY ORDER OF THE
### NATIONAL LABOR RELATIONS BOARD
### An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights.

> To organize
>
> To form, join, or assist any union
>
> To bargain collectively through representatives of their own choice
>
> To act together for other mutual aid or protection
>
> To choose not to engage in any of these protected concerted activities.

[1] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

[2] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

WE WILL NOT refuse to recognize and bargain collectively in good faith with United Steelworkers of America, AFL–CIO, CLC as the exclusive collective-bargaining representative for the unit employees in the following appropriate units:

> All production and maintenance employees of the Company's Canonsburg Transformer Plant, except for salaried employees, nurses, transformer testers, office clerical and technical employees, watchmen, guards, inspectors, and all supervisory employees.
>
> . . . .
>
> All testers (at the Greater Canonsburg Works) except for supervisors as defined in the National Labor Relations Act as amended and all other employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of the rights guaranteed them by Section 7 of the Act.

WE WILL recognize and, on request, bargain collectively and in good faith with the Union as the exclusive representative of the employees in the appropriate units concerning terms and conditions of employment and, if an understanding is reached, embody it in a signed agreement.

PENNSYLVANIA TRANSFORMER TECHNOLOGY, INC.